

Part 3

Transfer of Jurisdiction

75-5b-301 Transfer of guardianship or conservatorship to another state.

- (1) A guardian or conservator appointed in this state may petition the court to transfer the guardianship or conservatorship to another state.
- (2) Notice of a petition under Subsection (1) must be given to the persons that would be entitled to notice of a petition in this state for the appointment of a guardian or conservator.
- (3) On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the petition, the court shall hold a hearing on a petition filed pursuant to Subsection (1).
- (4) The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the court finds that:
 - (a) the incapacitated person is physically present in or is reasonably expected to move permanently to the other state;
 - (b) an objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person; and
 - (c) plans for care and services for the incapacitated person in the other state are reasonable and sufficient.
- (5) The court shall issue a provisional order granting a petition to transfer a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds that:
 - (a) the protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors in Subsection 75-5b-201(2);
 - (b) an objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person; and
 - (c) adequate arrangements will be made for management of the protected person's property.
- (6) The court shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon its receipt of:
 - (a) a provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to Section 75-5b-302; and
 - (b) the documents required to terminate a guardianship or conservatorship in this state.

Enacted by Chapter 253, 2008 General Session

75-5b-302 Accepting guardianship or conservatorship transferred from another state.

- (1) To confirm transfer of a guardianship or conservatorship transferred to this state under provisions similar to Section 75-5b-301, the guardian or conservator shall petition the court in this state to accept the guardianship or conservatorship. The petition shall include a certified copy of the other state's provisional order of transfer.
- (2) Notice of a petition under Subsection (1) shall be given by the petitioner to those persons who would be entitled to notice if the petition were a petition for the appointment of a guardian or

issuance of a protective order in both the transferring state and this state. The notice shall be given in the same manner as notice is given in this state.

- (3) On the court's own motion or on request of the incapacitated or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to Subsection (1).
- (4) The court shall issue an order provisionally granting a petition filed under Subsection (1) unless:
 - (a) an objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated or protected person; or
 - (b) the guardian or conservator is ineligible for appointment in this state.
- (5) The court shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian or conservator in this state upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to Section 75-5b-301 transferring the proceeding to this state.
- (6) Not later than 90 days after issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the law of this state.
- (7) In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacitated or protected person's incapacity and the appointment of the guardian or conservator.
- (8) The denial by a court of this state of a petition to accept a guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian or conservator in this state under Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons, if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

Enacted by Chapter 253, 2008 General Session